RE-EVALU. .G EMPLOYMENT EQUITY:

A Brief to the

Special House of Commons Committee

on the Review of the Employment Equity Act

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PREAMBLE

The Canadian Advisory Council on the Status of Women (CACSW) was established in 1973 on the recommendation of the Royal Commission on the Status of Women in Canada. The CACSW is composed of twenty-seven part-time and three full-time members appointed by the federal government. Collectively, CACSW members represent the regional, cultural, occupational, and racial and ethnic diversity of Canada, as well as the two official languages.

The CACSW's mandate is to advise the federal government and to inform the public on matters of interest and concern to women. Thus, the CACSW gives the government advice about the impact on women of existing or proposed policies and programs; undertakes and publishes research on issues of interest and concern to women with a view to achieving needed reform; informs the general public on key issues; and contributes to the development of a substantive body of Canadian resource material on women's issues.

INTRODUCTION

Over the past nineteen years, the Canadian Advisory Council on the Status of Women has played an important role in raising issues relating to women's inequality in the Canadian labour force. We have ensured that women's economic situation is well-documented and that women's voices are heard, and have urged the federal government to take appropriate action.[1] Economic issues affecting women, and particularly federal policy, continue to be at the forefront of the CACSW's concerns. In more recent years, for example, the CACSW has published a study on the limited "progress" and the (numerous) obstacles to sex equality for women in the federal public service.[2] Women's inequality in the Canadian labour market is the focus of *Women and Labour Market Poverty*,[3] the first large-scale study of employed poor women ("the working poor"). Other CACSW activities have also focused on obstacles to economic equality for women.[4]

In addition to highlighting certain economic disadvantages shared by all women, the CACSW – through its research, recommendations, advocacy, and educational activities – has been and remains sensitive to the double and triple discrimination faced by Aboriginal women, women with disabilities, and racial minority women.[5]

The CACSW recognizes that employment equity is a vital step in achieving women's labour market equality, and has officially endorsed this policy on numerous occasions. The CACSW supported the Abella Commission Report,[6] and more explicitly the recommendation for immediate legislation requiring all federally regulated employers and contractors to implement employment equity.[7] The CACSW also participated in the consultations of the Legislative Committee on the proposed employment equity legislation (Bill C-62) in December 1985,[8] and passed recommendations for a stricter and more inclusive *Employment Equity Act*.[9] In 1990, the CACSW submitted its comments during the preparatory phases of the current Parliamentary Review of the Act.

This brief will evaluate the impact of the *Employment Equity Act* in the first four reporting years after its implementation. A brief overview of the Act is first presented. The current economic situation of women in the labour force is then analyzed, followed by explanations of their continued labour market inequality. The progress made by women

employed in organizations covered by the Act is then examined, with particular attention paid to Aboriginal women, disabled women, and women of so-called "visible minorities".[10] An analysis of the relatively weak impact of the Act over the five-year period is then presented. Using these observations and the various explanations proposed, the CACSW concludes the brief with a series of recommendations aimed at increasing the Act's effectiveness.

THE EMPLOYMENT EQUITY ACT: A BRIEF OVERVIEW

The *Employment Equity Act* was implemented following the report of the Abella Commission, whose purpose was ". . .to inquire into the most efficient, effective and equitable means of promoting employment opportunities, eliminating systemic discrimination and assisting all individuals to compete for employment opportunities on an equal basis. . .".[11] The Commission's work demonstrated that systemic remedies were necessary to counter the effects of systemic discrimination.

The *Employment Equity Act*, proclaimed in August 1986, represents the federal government's response to this demonstrated need.

- The Act requires federally regulated employers and Crown corporations with 100 or more employees to implement programs to ensure that members of the four designated groups – women, Aboriginal peoples, persons with disabilities, and visible minorities – achieve equitable participation and representation.
- An employer's work force is considered representative when, for each occupational group, the designated groups are represented in the same proportion as is known to be available in the external work force.[12]
- Reports containing data on the representation of employees, occupational profiles, salaries, and opportunities for change must be filed with the Minister of Employment and Immigration on an annual basis.[13]
- Failure to comply with the reporting requirements results in a maximum penalty of fifty thousand dollars.

A second mandatory employment equity program for companies doing business with the Canadian government was implemented by the federal government in October 1986. **The Federal Contractors Program** has the following conditions:

- It applies to companies with over 100 employees who wish to bid on contracts of $200,000 or more to supply goods and/or services to the federal government.
- A commitment to implementing employment equity is a required component of bids tendered to the federal government by these companies.
- Employers subject to the Federal Contractors Program are not subject to the reporting requirements of the *Employment Equity Act*, but are subject to compliance reviews by Employment and Immigration Canada.
- Construction and legal firms are excluded from this program.

Both the Federal Contractors Program and the *Employment Equity Act* were aimed at eliminating systemic discrimination, at least in certain sectors of the labour force. A domino effect on the rest of the economy was perhaps anticipated. However, as indicated by the following statistics, the inequalities to be resolved remain extremely pervasive.

SYSTEMIC DISCRIMINATION THEN AND NOW: SOME FACTS

Women in 1986

- Women were far more likely than men to be concentrated in lower-paying occupations, mostly as clerical and services workers (45% compared to 13% of men).[14]
- Although women were overrepresented in professional occupations (15% compared to 10% of men), they were mostly concentrated in those traditionally dominated by women, namely teaching and nursing.[15]
- Women were substantially underrepresented in non-traditional jobs such as managers, foremen/women, and manual workers.[16]
- Women who were employed full-time earned only 65.8% of the average salary paid to men.[17]
- Women were less likely to hold full-time jobs than were their male counterparts: women's share of full-time employment was 37.9%. However, their share of part-time employment reached 71%, although almost one woman in four working part-time would have preferred full-time work.[18]
- The unemployment rate for **Aboriginal women** (21.8%) was almost double that of Canadian women overall (11.2%) and more than double that of Canadians overall (10.3%).[19]

- In 1985, the average salary paid to **Aboriginal women** who worked full-time was $18,500 compared with $20,000 for all Canadian women, $26,400 for Aboriginal men, and $30,500 for all Canadian men.[20]
- The labour force participation rate of **disabled women**[21] was low (37.0%) compared to that of disabled men (58.05%). The participation rate for non-disabled women was considerably higher (67.9%), as was that of their male counterparts (88.1%). "This suggests that, at least where labour force participation is concerned, disability tends to widen the gender gap."[22]
- The unemployment rate for **disabled women** aged 15 to 64 (17.0%) was greater than that of disabled men (14.2%), considerably greater than that of non-disabled Canadian women (11.4%), and almost twice the rate of non-disabled men (9.4%).[23]
- **Visible minority women** were more likely than Canadian women overall to be employed in low-paying occupations, especially as manual workers (18% compared to 9.9% for Canadian women overall). Like Canadian women overall, visible minority women were overrepresented in clerical, sales, and service occupations in 1986 (47.7% compared to 53.2% of all Canadian women). The percentage of visible minority women in upper-level management positions was extremely small (0.4%).
- **Visible minority women** were among the most disadvantaged in terms of salary. In 1985, the average salary paid to visible minority women who worked full-time was $18,900; this represents 67.7% of the average salary paid to their male counterparts and 62% of that for all Canadian men. However, the educational attainment of members of visible minorities was higher than that of the Canadian population (14% had a university degree, compared to 10% in the overall Canadian population).[24]

Women in 1990

Has significant progress been made in women's economic situation from 1986 to 1990? The answer is no; in fact, the same problems continue to plague women throughout the Canadian labour force. Economic disadvantages continue to be disproportionately borne by women.[25]

- The segregation of women into lower-paying "traditional" jobs continued throughout the late 1980s in Canada. In 1990, more than twice as many women than men were concentrated in clerical, sales, and service occupations (56.6% compared to 25.6% of men).[26]
- Women remained overrepresented in professional occupations (20.7% compared to 13.1% of men); however, this concentration was greatest in typically "female" professions, such as teaching and nursing.

- Women were considerably underrepresented in non-traditional jobs such as construction (0.3% compared to 11.3% of men) and manufacturing (5.9% compared to 18.5% of men).[27] This pattern of occupational segregation has remained virtually unchanged since 1986.
- The wage gap remained significant: in 1990, women who were employed full-time earned only 67.6% of the average salary paid to men employed full-time.[28]
- Women were still less likely to hold full-time jobs than were their male counterparts in 1990: women's share of full-time employment was 40.0%. Their share of part-time employment remained at 71%, although again in 1990 almost one woman in four working part-time would have preferred full-time work.[29]

The progress of Aboriginal women, women with disabilities, and visible minority women in the overall labour force can only be assessed once the results of the 1991 Census are made available. However, a dramatic change in their situation is doubtful in a work force in which they were doubly disadvantaged from the start.

Despite the bleakness of the overall picture for women in the labour force, one might imagine that the situation of women covered by the *Employment Equity Act* had improved significantly. Unfortunately, the data for women overall, Aboriginal women, disabled women, and visible minority women indicate no such changes during the first four reporting years of the legislation.

THE EMPLOYMENT EQUITY WORK FORCE THEN AND NOW: SOME FACTS

The data from employers covered by the *Employment Equity Act* during the first four reporting years (1987-1990) indicate the following limited progress in the representation, occupational profiles, salary profiles, and opportunities for change of all women, and more specifically women of other designated groups.[30]

All Women in the Work Force Covered by the Act

Representation

- The representation of women in the "employment equity work force" (those persons in the work force covered by the *Employment Equity Act*) increased slowly during the first four reporting years. Indeed, women represented 41.1% of the employment equity work force in 1987 and only 43.7% by 1990. Women's representation remained slightly below their representation in the Canadian labour force (44.0% in 1986 and 44.7% in 1990).[31]
- Women still remained overrepresented in part-time work, even though their share decreased from 74.4% in 1987 to 70.5% in 1990.
- Women's representation continued to vary considerably among industrial sectors throughout the first four reporting years. In 1990, women represented 76.0% of the banking sector, 41.2% of the communications sector, and a low of 19.2% in transportation.[32] The high representation in the banking sector is attributable to the large number of clerical positions and to the heavy concentration of women in such occupations.

Occupational Profile

- The occupational profile of women in the employment equity work force continued to indicate a high degree of occupational segregation. In 1990, almost seven out of ten (66.5%) women were in lower-paying clerical occupations. Women also continued to be underrepresented in upper- and middle-level management positions and in non-traditional occupations, namely manual workers and foremen/women.

More importantly, women remained "underutilized" in the majority of occupations in the first four reporting years after the implementation of the *Employment Equity Act*; their representation in the employment equity work force continued to fall below their availability as defined by their representation in the Canadian labour force.[33]

- In the case of upper-management occupations, the representation of women in the work force covered by the Act was 7.7% in 1990, compared to 17.4% in the Canadian work force. This underrepresentation is somewhat compensated by the progress made by women in "middle and other management" positions: 39.6% of these positions in the employment equity work force were filled by women in 1990, up from 33.2% in 1987, compared to 33.1% in the Canadian labour force. However it must be noted, as implied in the term "other management", that this is a broad category; positions with varied duties and levels of responsibility, including jobs traditionally assigned to women, are grouped together. Women are not necessarily at the higher echelons within this category.

- In spite of the increases in representation over the first years of the Act, women in the employment equity work force also remained underrepresented in non-traditional occupations to a greater extent than women in the overall labour force. In the case of skilled crafts and trades positions, 2.3% of the work force covered by the Act were occupied by women in 1990, compared to 8.3% in the Canadian labour force in 1986. Only 7.1% of the manual worker positions in the labour force covered by the Act were occupied by women in 1986, compared to 29.2% in the labour force.
- The underutilization of women in the professional and semi-professional occupations is also noteworthy. In the employment equity work force, 18.8% of all semi-professional and technical positions were occupied by women in 1990, compared to 50.5% of these positions in the overall work force.

Thus, the progress women have made in the employment equity work force is mitigated when compared to their representation in the overall work force. Women have not achieved equitable participation and representation in each occupational group, considering the proportions known to be available in the external work force. Moreover, these proportions are low estimates because they are based on 1986 data; at best, the little relative progress made by women in the employment equity work force must be interpreted with caution.

Salary Profile

- In 1990, the estimated average full-time salary for women in the employment equity work force was $29,444, or 72.6% of the average salary for men employed full-time.[34] This proportion has increased only slightly since 1987, when women earned 70.7% of the average salary for men employed full-time.[35]
- The salary distributions of women and men employed full-time in the work force covered by the Act reflect this wage gap. In 1990, almost two-thirds (64.9%) of women earned less than $30,000, compared with less than one-third (27.3%) of men. Conversely, 11.5% of women employed full-time and 40.6% of men employed full-time earned $40,000 or more.

Opportunities for Change

- Women's share of full-time hiring and promotions increased from 1987 to 1990. According to employers' reports, women were hired in 37.5% of new positions in 1987 and in 42.7% of such positions in 1990. Promotions were given to women in 51.1% of the cases in 1987 and in 58.1% of the cases in 1990.
- However, the distribution of women's full-time hiring and promotions served to reinforce the existing occupational sex segregation in the employment equity work force. In clerical occupations, where women were already heavily concentrated, their share of hiring reached allost 80% in 1990. Similarly, more than half the

hiring in service occupations was filled by women. Women's share of promotions remained over 80% in clerical occupations and almost 50% in service occupations.

- Conversely, in occupations where women were already severely underrepresented – upper-level management positions, manual occupations, foremen/women, skilled manual occupations, and skilled crafts and trades occupations – their share of hiring remained under 10% in 1990. Their share of promotions in all these occupations remained under 13% in 1990.
- Finally, women's share of terminations increased until 1989, when it reached almost four in ten (38.8%).

In summary, progress has been relatively slow for women in the work force covered by the *Employment Equity Act*. Women's share of the work force has increased in the first four reporting years; however, their representation still remains below their representation in the Canadian work force. Although women's share of full-time employment has also increased, part-time work has largely remained women's work. Occupational sex segregation did not decrease substantially from 1987 to 1990. More importantly, comparisons with the overall labour force indicated that women in the work force covered by the Act remained underrepresented in the majority of occupations. Hiring and promotions merely accentuated this segregation. Finally, the wage gap indicated that, on average, women employed full-time still earned less than 73 cents for every dollar earned by men employed full-time.

Women of Other Designated Groups

In 1990, approximately 12.5% of all women reported under the *Employment Equity Act* were also members of another designated group: less than 1% (0.8%) were also Aboriginal women, 2.6% were women with disabilities, and almost one in ten (9.1%) were also members of visible minorities. Considering the double disadvantage which these women face in the overall Canadian labour force, as demonstrated earlier in this brief, it is useful to examine whether the *Employment Equity Act* has had an impact on their occupational and economic status.

Aboriginal Women

Representation

- The representation of Aboriginal women in the work force covered by the Act remained extremely low from 1987 (0.3%) to 1990 (0.4%). This miniscule increase is at least partly attributable to an increase in rates of self-identification for

Aboriginal peoples,[36] so that the representation of these women may even have decreased during the first four reporting years. At this rate, it is not surprising that the representation of Aboriginal women in the work force covered by the Act remained below the 0.9% found in the Canadian labour force in 1986.

- The increase in representation of Aboriginal women in the employment equity work force from 1987 to 1990 was considerably smaller than that of all women (which rose slightly from 41.1% to 43.7%), indicating their double disadvantage.

Occupational Profile

- The few Aboriginal women in the employment equity work force remained concentrated in clerical and sales jobs from 1987 to 1990. No Aboriginal women were reported in upper-level management positions, foremen/women occupations, or skilled crafts and trades throughout the first four years of the Act. This pattern of occupational segregation resembles that of Aboriginal women in the Canadian labour force.
- In all twelve occupational categories, the representation of Aboriginal women in 1990 continued to fall well below their representation rate in the Canadian work force in 1986.

Salary Profile

- In 1990, the average full-time salary for Aboriginal women in the employment equity work force was $25,840; this represented 87.8% of the average full-time salary paid to all women. The wage gap between Aboriginal women and women overall has actually widened since 1987, when Aboriginal women working full-time earned 92.8 cents for every dollar paid to all women.

Opportunities for Change

- The increase in Aboriginal women's share of full-time hiring was negligible: it rose from 0.3% in 1987 to a mere 0.6% in 1990.
- As was the case for all women, more than 60% of Aboriginal women were hired into clerical occupations, where they were already overrepresented.

In summary, the representation of Aboriginal women remained low throughout the first four years of the *Employment Equity Act*. In this respect, they were disadvantaged compared to their male counterparts as well as all women. Furthermore, their representation in the work force covered by the Act remained well below their known availability in the Canadian labour force, both overall and for each of the twelve occupational groups. As was true for all

women, hiring tended to reinforce Aboriginal women's occupational segregation. Aboriginal women continued to be doubly disadvantaged with regard to salary: they earned less for full-time work than both Aboriginal men and women overall.

Women with Disabilities

Representation

- The representation of women with disabilities went from 0.6% of the employment equity work force in 1987 to 1.2% in 1990. Almost all of this increase was due to increasing rates of self-identification rather than employment growth estimated from the net effect of hiring and terminations.[37] Regardless of this increase, the representation of disabled women still remained below the 2.3% found in the Canadian work force in 1986.
- The growth in the employment of women with disabilities was greater for part-time than for full-time work throughout the four reporting years of the Act.

Occupational Profile

- Much like women overall, the few disabled women in the employment equity work force remained concentrated in clerical occupations from 1987 to 1990. The largest increase in representation of disabled women occurred in this occupational category (from 1.1% in 1987 to 2.2% in 1990).
- In eleven of twelve occupations, the representation of disabled women in 1990 remained well below their representation rate in the labour market in 1986. The only exception was the middle and other management category, where their representation in the employment equity work force (1.0%) was virtually equivalent to their presence in the labour market in 1986 (0.9%). According to employers' reports, disabled women were absent from foremen/women, skilled crafts and trades, and semi-skilled manual occupations throughout the first four reporting years.

Salary Profile

- In 1990, the average full-time salary for disabled women was $28,018, or 68.9% of the salary paid to disabled men and 95.2% of that paid to all women in the employment equity work force.
- This wage gap is further reflected in the salary distributions: 14.2% of full-time disabled women earned less than $20,000, compared to 13.0% of all women and only 3.6% of disabled men. Conversely, 9.2% of full-time disabled women earned $40,000 or more, compared with 11.6% of all women and 39.7% of disabled men.

Opportunities for Change

- Disabled women's share of full-time hiring rose from 0.3% to 0.6% from 1987 to 1990. However, once again, almost 80% (78%) of disabled women were hired into clerical occupations, thus reinforcing the existing occupational segregation.

In summary, the small increase in representation of disabled women from 1987 to 1990 was attributable to a rise in self-identification rather than employment growth. For women with disabilities, the net effect of hirings and terminations was a decreased representation in full-time employment, but an increased relative share of part-time employment. As well, their representation in the employment equity work force remained below their known representation in the Canadian labour force during each of the four reporting years, both overall and in eleven of twelve occupational groups. As was the case for Aboriginal women, the wage gap between disabled women and their male counterparts as well as women overall indicated a double disadvantage.

Visible Minority Women

Representation

- The representation of visible minority women in the employment equity work force increased from 2.8% in 1987 to 4.0% in 1990. This was slightly higher than their representation in the Canadian labour force in 1986 (2.9%). However, given the increase in immigration over the past five years as well as the rise in women's labour force participation rates, it is questionable if not erroneous to assume that visible minority women have achieved equitable representation in the work force covered by the Act.[38]
- This increase in representation was due in part to employment growth, and more so in full-time than in part-time employment. However, rising rates of self-identification also accounted for some of this increase.

Occupational Profile

- Visible minority women in the work force covered by the Act remained highly concentrated in clerical occupations during the period under consideration, both overall and in full-time employment. Their share rose from 5.6% in 1987 to 7.6% in 1990, which surpasses their representation of 4.6% in the Canadian labour market.
- This concentration remained higher for visible minority women than for all women in the employment equity work force: in 1990, 72.7% of visible minority women

and 66.5% of all women occupied clerical positions. In all other occupational categories, with the exception of supervisors, visible minority women were underrepresented compared to women overall, reflecting their double disadvantage. Once again, the same trend also applied when the comparison was restricted to full-time workers.

- Throughout the first four years of the Act, the representation of visible minority women in upper-level management positions remained stagnant (from 0.1% to 0.2%) and below their known representation in the Canadian work force in 1986 (0.8%). However, their representation in middle and other management positions increased from 3.5% to 4.5% and remained above their representation of 1.5% in the overall labour force in 1986. Again, the heterogeneity of this category must be considered when analyzing these statistics.
- As was the case for women overall, visible minority women remained relatively absent from non-traditional occupations – foremen/women, manual, and skilled crafts and trades. Moreover, they were underutilized: in other manual occupations, for instance, the share of visible minority women in the employment equity work force was only 0.4% compared to 3.5% in the Canadian labour market in 1986.

Salary Profile

- In 1990, the average full-time salary for visible minority women in the employment equity work force was $28,520, or 73.9% of the salary paid to their male counterparts. The wage difference was much smaller when women were used as the basis of comparison: the average salary of visible minority women was almost equivalent to the average salary of $29,444 paid to all women employed full-time, even though this gap has remained virtually unchanged since 1987. However, as indicated earlier, this apparent parity may be deceiving, given that on average, visible minorities have a higher educational attainment and are concentrated in wealthier regions in Canada. An analysis of employers' reports by region would probably yield a greater wage gap than does the aggregate national data.[39]

Opportunities for Change

- As was the case for women overall, Aboriginal women, and disabled women, hirings and promotions served to reinforce the existing occupational segregation of visible minority women. For example, more than eight in ten (82.5%) visible minority women hired in the work force covered by the Act in 1990 entered clerical positions. Similarly, more than six promotions in ten (64.2%) given to visible minority women were in clerical occupations.

In summary, the progress made by visible minority women in the employment equity work force is, at best, limited. Representation increased from 1987 to 1990 and surpassed their known representation in the Canadian labour market in 1986. However, given the out-of-date data being used to chart the "progress" of visible minority women, it is doubtful they have

really achieved equitable participation. If representation has improved, segregation still continues to characterize the occupational profiles of visible minority women: concentration in clerical occupations has increased, and underrepresentation in upper-management positions and in occupations from which women have traditionally been excluded has continued. Hirings and promotions have contributed to these continuing trends over the first four reporting years. Although the wage gap between visible minority women and women overall remained small, further analyses taking into account earnings-related factors (such as education) would probably demonstrate the continued inequality of visible minority women.[40]

SYSTEMIC DISCRIMINATION: A COMPLEX PROCESS

Why has so little progress been made? The answer is clear: the requirements and sanctions of the *Employment Equity Act* do not constitute an adequate response to the phenomenon of systemic discrimination. Systemic discrimination requires a true **systemic remedy**, one which is adapted to the characteristics of this discrimination.

Research over the past twenty years has shown that systemic discrimination results from a number of historical, social, and psychological factors which are closely interrelated and interdependent. In general, the concentration of women in typically "female" jobs results not so much from their abilities as from the values and stereotypes which perpetuate certain images of women as patient, meticulous, and having good interpersonal skills, and hence determine the type of work deemed suitable for them.[41]

Aboriginal women, disabled women, and visible minority women face particular employment barriers which contribute to their double disadvantage in the labour market. For Aboriginal women, these barriers include geographic isolation, cultural differences, and lack of education and training programs adapted to their needs. For women with disabilities, the lack of physical accessibility to education and occupational facilities are of paramount importance.[42] For visible minority women, problems concerning the assessment of foreign professional qualifications, certification and retraining, and language training are among the employment barriers which impede their full and equal participation in the labour force.[43]

For each of these designated groups, the accumulation and interplay of institutionalized systems and practices, which result in "arbitrary and extensive exclusions"[44] of persons based on their group affiliation, has been termed **"systemic discrimination"**. The systemic nature of the discrimination resides in the dynamic interrelationships between the various factors whose effects disadvantage women, visible minorities, Aboriginal peoples, and disabled persons.[45]

Employers are an integral part of the system which has exclusionary effects on members of certain groups. Stereotypes and social values contribute to determining the occupations and salaries attributed to women, and particularly Aboriginal women, visible minority women, and women with disabilities. This disadvantaged position in turn influences the social institutions which help set the aspirations and professional goals of future women workers. For example, professional guidance counsellors will often direct women candidates to jobs they have a realistic chance of obtaining, most often typically "female" jobs. Individual decisions are also influenced by the disadvantaged position of women, and particularly Aboriginal women, disabled women, and visible minority women; a "critical mass" is needed to reduce the "chilling effect" which discourages women from even aspiring to certain occupations.[46]

Whether employers intentionally discriminate against certain groups is essentially irrelevant; instead, the **effects** of the employers' practices and policies are sufficient indicators of systemic discrimination. This approach is clearly reflected in the definition of systemic discrimination formulated by Chief Justice Dickson in the Action Travail des Femmes\CN Rail case:

> ". . . systemic discrimination in an employment context is discrimination that results from the simple operation of established procedures of recruitment, hiring and promotion, none of which is necessarily designed to promote discrimination. The discrimination is then reinforced by the very exclusion of the disadvantaged group because the exclusion fosters the belief, both within and outside the group, that the exclusion is the result of "natural" forces, for example that women "just can't do the job".[47]

Several hiring and recruitment practices constitute barriers for women, thus perpetuating the vicious cycle of systemic discrimination. Here are a few of the many possible examples.

- The use of informal recruitment networks has the effect of narrowing the potential pool of applicants to groups already present in certain occupations. In the case of non-traditional jobs, where men predominate, informal mechanisms have the effect of excluding female candidates who, although they have the necessary qualifications to apply, do not have access to these networks. In the absence of a critical mass of women in certain occupations – and especially for visible minority women, disabled women, and Aboriginal women – the likelihood that women will be reached through these informal networks is very slim.
- In the CN Rail case cited above, welding experience was required for entry-level positions, such as coach cleaners. Because few women had such experience, this practice adversely affected female candidates, especially considering that welding did not constitute a bona fide occupational requirement.[48]
- Similarly, minimal height and weight requirements for entry into occupations such as the police force have had an exclusionary effect on women as a group, given that fewer women met these arbitrary requirements.
- Promotion practices may also serve to hinder women's advancement within a given organization. In one recent case, a company had changed its gender-based job classification system to ensure equal access to all jobs regardless of gender. However, seniority was still calculated according to the department in which the experience was acquired. Because virtually all women had held positions in a single department, men who had accumulated experience in any department (with one exception) had priority over women when applying for a position in that department. Whereas most women had at least ten years experience in the company, the so-called neutral seniority policy gave priority to the last-hired men in the departments in which they worked.[49]
- Other apparently neutral promotion practices have the effect of limiting women's advancement. Because of sex stereotyping and prior occupational segregation, women are often tracked into occupations where possibilities of advancement are more limited than in those held by their male counterparts. Promotions are dependent on the track and are out of reach for the majority of female employees. Women then rapidly hit the "glass ceiling".[50]

These few examples demonstrate the self-perpetuating nature of these barriers which result from apparently neutral employment practices. Because systemic discrimination is so pervasive and self-perpetuating, the remedies must be equally encompassing.

The recognition of the adverse effects of systemic discrimination as well as the necessity for appropriate remedies provided the rationale for the implementation of the *Employment Equity Act*. Section 2 of the Act clearly expresses its results-oriented objectives:

> The purpose of this Act is **to achieve equality** in the work place so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal, **to correct the conditions of disadvantage in employment experienced by**

> **women, aboriginal peoples, persons with disabilities and persons who are, because of their race or colour, in a visible minority in Canada** by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences. (emphasis added)

However, the results presented above indicated a serious gap between the intended objectives of the Act and the reality of all women's employment status. Why?

WOMEN'S LIMITED PROGRESS: THE LEGISLATION AND BEYOND

The explanations for this lack of significant progress are two-fold. First and foremost, the limitations of the *Employment Equity Act* itself must be recognized. While the Canadian Advisory Council on the Status of Women acknowledges the federal government's efforts in bringing forward legislation to achieve equality in employment, we believe that the Act does not constitute an adequate systemic remedy. The principal concerns of the CACSW in this area touch on coverage, the definition of equality, plan requirements, reporting requirements, and monitoring and enforcement.

Second, the effectiveness of the *Employment Equity Act* depends on the current socio-economic context. The CACSW is concerned that certain federal economic policies – or lack thereof – have a negative impact on the intended objectives of the employment equity legislation. Job creation, job training, the reconciliation of work and family responsibilities, and pay equity are four areas where government policies are needed to ensure the full success of employment equity initiatives.

These concerns are presented below, along with the CACSW's recommendations which aim to increase the effectiveness of the *Employment Equity Act*.

The Current Employment Equity Legislation

Coverage

In order to counter the pervasive effects of systemic discrimination on women, and particularly visible minority women, Aboriginal women and disabled women, employment equity legislation should be as extensive as possible. Yet as indicated in Section 3, the current *Employment Equity Act* applies only to federally regulated employers, including Crown corporations, with 100 or more employees.

In 1990, Employment and Immigration Canada (EIC) received annual reports from 361 employers representing a total of 631,423 employees. It is difficult to obtain data on: a) the number of federally regulated businesses with fewer than 100 employees; and b) the total number of excluded employees. As a result, it is also difficult to determine the exact proportion of the federally regulated work force covered by the Act. However, one certainty is that the limited coverage excludes many women, especially given that women are more likely than men to be employed in smaller businesses.[51] As well, the increasing trend towards sub-contracting as a means of cutting costs may serve to decrease the number of employers subject to the *Employment Equity Act*, thus further excluding women.

The limited scope of the Federal Contractors Program has similar effects. As it stands, this program applies to businesses of 100 or more employees bidding on federal contracts of $200,000 or more. Construction and legal services are excluded altogether. The effect of these limitations is to restrict the number of women who benefit from employment equity measures.

While extended coverage to smaller businesses may imply increased financial and administrative costs, it is also true that the planning process which precedes the implementation of an employment equity program does not represent an enormous task and is relatively simpler in companies with fewer employees.[52] Annual reporting requirements are not costly in human resources and time, especially considering the various forms of assistance provided by the Employment and Equity Branch of Employment and Immigration Canada. Furthermore, employers may benefit – through more efficient personnel management – from labour force assessments and revision of employment practices.[53]

The CACSW is concerned with the exclusion of the construction industry and legal firms from the Federal Contractors Program. The rationale given for the exclusion of legal services is they do not fall under the jurisdiction of Treasury Board. However, a special provision could be made forcing these firms to comply with employment equity requirements. With regard to the construction industry, the public funds it has received to promote employment equity have not significantly improved the number of women in construction occupations.[54] The likelihood that Aboriginal women, disabled women, and visible minority women have benefitted are slim. In an industry where systemic discrimination has had important exclusionary effects on women, employment equity is all the more essential and urgent.

Another notable exclusion from the current employment legislation is that of federal government departments. Although Treasury Board is responsible for the administration of employment equity throughout the federal public service, its employment equity program is not subject to the demands of the *Employment Equity Act*. As an exemplary employer, the federal government should be subject to the same demands it makes on the private sector and on Crown corporations.

The CACSW wishes to emphasize the numerous costs incurred by groups which have been and remain disadvantaged on the labour market. The data presented in this brief provide ample evidence of the economic disadvantages experienced by women, and more specifically those of other designated groups, both in the overall labour work force and in the work force covered by the Act. The requirements and sanctions must be extensive and universal for the system to remedy itself. As well, the social costs of discrimination cannot be ignored.[55]

> The CACSW **recommends** that the *Employment Equity Act* be extended to cover all federally regulated employers, including Crown corporations, government departments, agencies, and businesses and corporations in the federally regulated private sector.
>
> The CACSW further **recommends** that all employers bidding on contracts with the federal government, including construction and legal firms, be subject to the employment equity legislation.

Definition of Equality

As stated in Section 2, the basic purpose of the *Employment Equity Act* is to achieve "equality" in employment for groups who have historically been disadvantaged by virtue of their

group affiliation. While the CACSW fully supports this objective, we are concerned about the way in which equality is defined. What kind of equality is being sought?

Equality is defined in Section 4 of the Act as:

> . . . a degree of representation in the various positions of employment with the employer that is at least proportionate to their representation
>
> (i) in the work force, or
> (ii) in those segments of the work force that are identifiable by qualification, eligibility or geography and from which the employer may be reasonably expected to draw or promote employees.

In practice, an employer's work force is deemed representative when it reflects the demographic composition of the labour force. More specifically, representation is achieved when, for each of the twelve occupational groups, the members of designated groups are represented in roughly the same proportion as in the external labour force in the local area. A non-representative work force signals the need for evaluation and action. The data on the external labour force are drawn principally from the Census.[56]

The availability analysis – the comparison of representation of a given employer's work force with the availability of designated groups in the external labour force – represents a crucial step in determining whether equality has been achieved for women, Aboriginal women, disabled women, and visible minority women. The availability data used in this process sets the norm against which the performance of employers is evaluated. It is therefore of utmost importance that this data **not** reinforce the effects of the existing systemic discrimination.

As indicated in the data on women in the Canadian labour force presented earlier, the external norm currently used by employers covered by the *Employment Equity Act* to evaluate representation reflects the effects of systemic discrimination: sex segregation and lower earnings already characterize the labour force profile of women in the Canadian labour force. Using this norm to determine employers' equity objectives will not produce employment equity.

In order to break the cycle of systemic discrimination, the definition of availability must be broadened. Availability must not be defined solely in terms of those members of

designated groups who hold similar occupations in the external work force at a particular point in time, but must include those who are **qualified** for the occupations as well as those who are **capable of acquiring these qualifications** within a reasonable amount of time.[57]

The CACSW is somewhat concerned that the availability data used to evaluate the representation of designated groups may underestimate the "true" availability of members of these groups, and more particularly that of women. This concern remains, despite knowing that the twelve occupational categories used in the internal-external work force comparisons are grouped according to the nature and scope of duties and responsibilities, education, type of work, and specific vocational preparation.[58]

Let us take the example of middle and other management positions within a given organization. If the pool of available candidates were to include those who are qualified as well as those capable of acquiring the necessary skills within a reasonable time period, then professionals or supervisors in addition to persons holding middle-management positions could very well be considered "available" to fill these positions. This measure would increase the number of available women (because women tend to be better represented in professional occupations).

The CACSW recognizes the operational and technical difficulties related to the development of a broader definition of "available work force". However, women – and particularly Aboriginal women, disabled women, and visible minority women – remain "underutilized"; the data over the first four years has provided ample evidence that systemic barriers still limit their access to equality in employment.

Because availability analysis constitutes the basis upon which the need for employment equity measures is established, a more comprehensive definition of availability is needed to prevent the current pattern of discrimination against women from becoming entrenched in the very objectives of employment equity plans.

> The CACSW therefore **recommends** that methodological studies be undertaken by Statistics Canada with a view to expanding the actual availability estimates to include the broader supply of labour offered by designated groups.
>
> The CACSW further **recommends** that, within a reasonable period of time, the operational definition of "availability" in the *Employment*

Equity Act be expanded to include those members of the work force who are qualified to occupy a given occupation as well as those who are capable of acquiring these qualifications within a reasonable period of time.

Statutory Plan Requirements

In order for employment equity plans to be effective, they must specify the goals and the timeframe within which the results can be anticipated, the means utilized to achieve these goals, and the partners involved in development of the overall plan. These requirements must be included in the legislation and must be binding on employers if employment equity is to be achieved. The CACSW is greatly concerned about the absence of such mandatory requirements in the current legislation.

Numerical Goals and Timetables

The plan requirements regarding goals and timetables is specified in Section 5 (1) of the *Employment Equity Act*. The employment equity goals are those the employer "intends" to achieve ". . . in the year or years to which the plan relates. . .". No specifications about establishing timetables are provided to employers.

These requirements remain vague and give great latitude to employers. Furthermore, time has proven that these prerequisites are insufficient measures for the achievement of employment equity as defined in the legislation. In effect, the evidence has shown that women have not progressed significantly in the employment equity work force during the first years of the legislation; occupational segregation and lower earnings still plague the occupational profile of women. Aboriginal women, disabled women, and visible minority women remain doubly disadvantaged in this respect. At this rate of progress, it will take decades before women achieve freedom from systemic discrimination in the work force covered by the Act.

The CACSW strongly believes that mandatory goals and timetables are essential to ensure employment equity for women, including women of other designated groups. Furthermore, without goals and timetables, there is no basis upon which to assess employer progress, and no timeframe within which the representation must match that of the availability in the external work force.

The CACSW therefore **recommends** that the *Employment Equity Act* be amended to include mandatory numerical goals and timetables for their achievement.

The CACSW **recommends** that Employment and Immigration Canada or another enforcement agency should provide guidelines for setting flexible, yet effective, numerical goals and timetables. Timetables should contain a specific target date at which time the employer's performance should be assessed by Employment and Immigration Canada or another enforcement agency.

▸ **Means to Attain Employment Equity**

Section 4 of the *Employment Equity Act* specifies the means employers must take to attain the employment equity goals. Essentially, the legislation specifies two areas employers must act on: 1) the identification and elimination of employment practices that result in employment barriers; and 2) the implementation of "positive policies and practices" and "reasonable accommodation" measures to ensure equitable representation of designated group members.

The CACSW wishes to underline the inability of the legislation to clearly distinguish the various components of a successful employment equity program and the limited scope of the employers' obligations in this respect.[59]

Essentially, employment equity has three sub-objectives: accelerating the representation of designated groups to redress past employment imbalances; ensuring that policies and practices do not counter the effects of this increased representation; and maintaining this representation over time. Three essential components of an employment equity program should correspond to these objectives: corrective measures, i.e., or measures which aim at achieving equal results; equal opportunity measures; and support measures.

As the term implies, **corrective measures** are designed to redress the underutilization of the disadvantaged groups by increasing their representation in a given work force. Because of the cumulative effects of past discrimination, the representation of designated groups must increase at a faster rate than in the past to match that of the groups who have not experienced discrimination. Only when these corrective measures are applied can members from all disadvantaged groups (finally) compete on an equal footing in the labour market. Such measures enable the creation of a "critical mass" of the previously excluded group, which increases the chances of continuing self-correction of the employment system.

Certain "special measures" specified in Employment and Immigration Canada's *Guide to Employers*[60] can be classified as corrective measures. Examples of these corresponding measures include targeted recruitment or special training initiatives for members of these groups. Such measures must form an integral part of any employment equity program if employers are to successfully redress the past imbalance created by systemic discrimination. The *Guide to Employers* explicitly recognizes this necessity.

Equal opportunity measures are designed to ensure that members of designated groups will not face the barriers that have excluded these groups in the past. These measures are aimed at eliminating discriminatory employment practices, thereby giving these groups equal chances of fulfilling their abilities on the labour market. Examples of equal opportunity measures for women include the removal of sexist seniority systems, the elimination of sexual harassment through the implementation of specially designed policies, the removal of gender-related occupational testing and evaluation, and the elimination of "mommy-tracks" and other paths which serve to create distinct career paths for women and men. For disabled women, the removal of physical barriers is a necessary pre-condition for accessibility. For visible minority women, the removal of language barriers through the provision of language training constitutes an equal opportunity measure.

Certain "positive policies and practices" as well as certain "reasonable accommodation measures" referred to in Section 4 of the legislation correspond to such equal opportunity measures.

Support measures are necessary to ensure that equality of results – the goal of the employment equity program – will be maintained. Such support measures would include, but not be limited to, flexible work hours, parental leaves, and increased access to child-care facilities. Certain "reasonable accommodation" measures mentioned in EIC's *Guide to Employers* correspond to support measures; examples include the provision of child-care expenses, work schedule options, redesigning job duties, and upgrading facilities.[61]

By itself, each measure is insufficient to ensure employment equity as defined by the legislation. It is vital that these three components (corrective, equal opportunity, and support measures) work together to ensure that future workers from the designated groups do not face the same barriers that hindered their predecessors.

Information reported in the Employment Equity Annual Reports suggests that certain employers – those who volunteer the information – are implementing corrective, equal opportunity and/or support measures.[62] However, employers are not obligated to implement measures corresponding to each of these three types, even though each is essential to the achievement and maintenance of employment equity. The title given to the chapter in the annual report describing such measures clearly indicates that EIC regards these measures as "qualitative" and best left to the "good faith" of employers.

Moreover, ample evidence illustrating the limited progress of women overall, visible minority women, disabled women, and Aboriginal women during the first four reporting years of the employment equity legislation suggests that the employer's good faith efforts are not sufficient to remedy the persisting cycle of systemic discrimination.

> The CACSW therefore **recommends** that corrective measures, equal opportunity measures, and support measures be explicitly recognized and distinguished in the *Employment Equity Act* as essential components of any employment equity program. More precise distinctions and definitions of these three employer strategies, including their specific objectives and the rationale for their implementation, should be provided to employers in the form of guidelines or regulations.
>
> The CACSW further **recommends** that employers be required to develop and implement measures corresponding to each of the three program components. These measures should be adapted to the particular situation of the organization as well as the economic and social context in which the organization operates.
>
> The CACSW also **recommends** that Employment and Immigration Canada or another enforcement agency provide further education, resources, and assistance to employers and all other parties involved in the development and management of employment equity plans.

▸ The Role of Unions and Representatives of Designated Groups

Unions play a central role in the negotiation of working conditions, wages, and benefits. They are also central in making employment equity work. The CACSW believes that unions must be involved in the development, implementation, and maintenance of employment equity plans.

Representatives of designated groups are also central to the question of employment equity. These groups have experienced the effects of systemic discrimination in the past, and

continue to be adversely affected, as indicated by the evidence on their limited progress. Representatives of these groups are fully aware of the causes of their disadvantages on the labour market and are therefore in a good position to evaluate the appropriate and efficient remedies needed.[63] The CACSW believes that women, and more specifically visible minority women, Aboriginal women and women with disabilities, must be guaranteed full participation in the employment equity process.

Currently, the *Employment Equity Act* requires minimal cooperation between these two parties and the employer. Section 4 requires employers to consult with their employees in the implementation of equity programs. "Consultation" is defined in the guidelines issued after the proclamation of the Act: ". . .consultation means that the employer must supply sufficient information and sufficient opportunity to employee representatives or bargaining agents to enable them to ask questions and submit advice on the implementation of Employment Equity."[64]

The CACSW believes that this form of consultation does not guarantee true, effective cooperation between the partners involved. Moreover, we contend that such cooperation is necessary to ensure the quality and success of any equity program.

> The CACSW therefore **recommends** that the legislation explicitly include the full participation of unions and representatives of designated groups in the planning, implementation, and monitoring of the equity program.

Reporting Requirements

The information used to develop the goals, timetables, and strategies for achieving employment equity constitute valuable material used in employment equity assessment and monitoring. Employers' reports are also essential for public scrutiny.

Section 6 of the *Employment Equity Act* restricts the reporting requirements to data on the occupational and salary profiles of its employees, including hiring, terminations, and promotions. The Employment Equity Annual Reports compiled by Employment and Immigration Canada then provide information from the executive summaries as well as information volunteered by employers describing special initiatives to accelerate change and remedy underrepresentation.[65]

In the CACSW's view, the reporting requirements under the current *Employment Equity Act* are insufficient and warrant important changes. More detailed information is needed to assess the progress of employers and determine how the achievement of equality can be accelerated for women and other designated groups.

The CACSW believes that employers' reports should continue to be submitted on an annual basis.

> The CACSW **recommends** that reporting requirements be extended to the actual employment equity plan that employers are expected to develop, implement, and manage. This information should include, but not be limited to:
>
> - the numerical goals and timetables set by employers to achieve proportional representation of designated groups, including the annual adjustments made to these objectives;
> - the specific corrective, equal opportunity, and support measures developed and implemented by employers to achieve and maintain the proportional representation of designated groups.

Monitoring and Enforcement

Without monitoring and enforcement, employment equity is not likely to produce the badly needed results for women, Aboriginal peoples, disabled persons, and members of visible minorities.

Under the current *Employment Equity Act*, employers can only be sanctioned if they fail to file an annual report as required. As indicated in Section 7 of the Act, "An employer who fails to comply with section 6 is guilty of an offence and liable on summary conviction to a fine not exceeding fifty thousand dollars." However, there are no provisions whatsoever for monitoring and enforcing the development and implementation of the plans, and for sanctioning employers whose plans do not constitute sufficient systemic remedies.

This approach relies implicitly on public scrutiny and public pressure as a means of enforcement. The government expects that making individual annual reports available for public inspection in libraries throughout Canada will essentially shame employers into compliance. Representatives of designated groups are thus expected to monitor employers' reports, to calculate the progress of their group's members, and to identify areas of inequity. Individuals are

also expected to initiate complaints on their own to the Canadian Human Rights Commission (CHRC) if there is reasonable evidence of systemic discrimination.[66]

The federal government's solution to this lack of enforcement has been to designate the CHRC as the enforcement body. Under Section 8 of the *Employment Equity Act*, the Minister of Employment and Immigration is required to send copies of employer reports to the CHRC. However, the CHRC does not have the power to enforce the *Employment Equity Act*. The *Canadian Human Rights Act* only provides the CHRC with the authority to initiate discrimination complaints against employers. The CHRC can also accept complaints against individual employers from individuals and organizations where there is evidence of systemic discrimination.

Time has shown the limited effectiveness of this solution. In the first four reporting years of the *Employment Equity Act*, only 32 complaints have been filed with the CHRC. The evidence on the limited progress of women during this period, and more particularly women of other designated groups, would seem to warrant a greater number of such initiatives.

This solution constitutes a case-by-case response to a problem which is deeply rooted and engrained in the social and economic institutions of this country. Because systemic discrimination is all-encompassing, it requires more than an individual solution. Those who continue to bear the burden of discrimination – women, Aboriginal peoples, disabled persons, and visible minorities – should not be held responsible for ensuring that employment equity becomes a reality.

Under the current legislation, the requirement to implement employment equity programs is still essentially voluntary: the only enforceable requirement is to file an annual report. Such a voluntary approach has proven to be ineffective. Voluntary programs of various kinds on behalf of women have been attempted in Canada without producing any concrete results.[67] From 1979 to 1984, more than 1400 private sector employers were contacted by the Canada Employment and Immigration Commission and encouraged to participate in an employment equity program. The net result: as of July 1984, only 71 companies had agreed to participate.[68] In 1985, a survey of large companies in Toronto indicated that three-quarters of the managers and personnel directors did not favour policy changes that would require them to eliminate discriminatory employment practices.[69] Experience in the United States confirms that

mandatory requirements and enforcement are necessary to ensure the success of affirmative action programs.[70]

The evidence on the employment status of women five years after the implementation of the *Employment Equity Act* points to the failure of the voluntary approach to employment equity. At best, progress has been minimal for women, and more particularly for Aboriginal women, women with disabilities, and visible minority women.

The CACSW is greatly concerned with the lack of enforcement of the requirement to implement employment equity.

> The CACSW therefore **recommends** that all plan requirements, including goals and timetables, the measures implemented to achieve these results, and the inclusion of this information in the annual reports, be enforceable by the legislation.
>
> The CACSW also **recommends** that employer non-compliance be subject to penalty.

In the CACSW's view, the current fine for non-compliance – a maximum of $50,000 – does not constitute an effective deterrent, especially for large companies. Moreover, the high economic and social costs of discrimination experienced by women, particularly women of other designated groups, must not be forgotten.

> The CACSW therefore **recommends** that the upper limit of the fine be considerably increased, and that the fine be established in proportion to the size of the employer.

The CACSW is also concerned about the ineffectiveness of the CHRC as an enforcement agency.

> The CACSW therefore **recommends** that the powers and resources of the Canadian Human Rights Commission be increased, or that an independent monitoring and enforcement agency with adequate human and financial resources be created.

Beyond the Employment Equity Act

Employment equity does not operate in a vacuum. This policy will only be completely successful in improving women's economic status if the social and economic context favours the achievement of its objectives. It is therefore of utmost importance that social and economic policies which have an impact on women's employment reinforce current and future equity initiatives. In the words of Judge Abella, "What is needed to achieve equality in employment is a massive policy response to systemic discrimination."[71]

Full Employment

Employment equity will not succeed in the current context of unemployment and job instability. The recent economic recession provides a case in point: a number of employers have used this slowdown to explain their reduced ability to increase the representation of women, Aboriginal peoples, persons with disabilities, and persons of visible minorities within their ranks.[72]

Until now, even in the 1992 federal budget, the federal government has tended to give priority to monetary policy rather than to employment. Yet a commitment to full employment is necessary to ensure the full success of employment equity initiatives. In addition to increasing the number of jobs which could be filled by members of designated groups, full employment would also decrease the rivalry for jobs between the designated groups and the social groups who have traditionally been privileged (as opposed to adversely affected) by systemic discrimination: the gains of designated group members would be less threatening to the "majority".[73] The CACSW strongly believes that the federal government should commit itself to full employment by way of a lower unemployment target rate, within the context of stable prices.

Job Training

For women, the acquisition of specialized training and technical skills is of utmost importance in increasing their access to occupations from which they have traditionally been excluded. Evidence indicates that women's representation is lowest in these non-traditional

occupations, and that equality is far from being achieved. Aboriginal women, disabled women, and visible minority women have fared even worse in this respect than women overall.

Federal policies could have a significant role to play in the level of training achieved by Canadian workers. In the past, the CACSW has strongly encouraged the federal government to initiate and implement programs aimed at increasing women's chances of receiving advanced occupational and job-related training. Examples of these recommendations include the revision of all programs under the Canadian Jobs Strategy in order to ensure women's participation and the removal of barriers which limit their access to these and other training programs. The CACSW strongly believes that effective federal policies and additional initiatives in this area will reinforce the initiatives put in place by employers to increase the representation of all women, and in doing so will contribute to the much-needed success of employment equity.

Work and Family Responsibilities

The labour force participation of women is strongly linked to family responsibilities. In spite of their increased employment levels, women continue to have the primary responsibility for the care of children and the management of household duties.[74] Because of the failure of the workplace to accommodate these responsibilities, they continue to have a significant impact on the employment that women are able to secure and on the capacity to earn an adequate level of income in the labour market.[75] The social and economic institutions interact to produce an effect on women which can hardly be qualified as "neutral".

For these reasons, employment equity for women will have a greater chance of success if the external conditions facilitate the integration of work and family responsibilities. Such favourable conditions include affordable child-care facilities, increased parental supports, and other education and social programs.

Certain federal policies relating to these issues have an important role to play in the complete success of employment equity. In the area of child care and parental supports, the CACSW has recently voiced its concern that the current federal policies and practices are insufficient to encourage the integration and continued participation of women in the paid labour market. The CACSW would like to point out its recent recommendations regarding the

lack of adequate child care, parental supports, and the role of the public sector.[76] The CACSW also would like to express its extreme disappointment over the federal government's decision, announced February 26, 1992, not to implement a national child-care program.

Immediate and effective action on the part of the federal government is necessary to facilitate the integration of work and family responsibilities, which will in turn increase women's employment opportunities. The success of employment equity also depends on these efforts.

Pay Equity

Whereas employment equity seeks to improve women's representation in occupations from which they have been denied access in the past, the purpose of pay equity is to redress the salary disadvantages associated with traditionally "female" occupations. Pay equity policies generally attempt:

- to assess the relative worth or value of female and male occupations with respect to criteria such as qualifications, level of responsibility, effort required, and working conditions;
- and to eliminate the consistent underpaying of women's work relative to comparable jobs traditionally considered as men's work.

The female-male wage gap constitutes a clear indication of the persistence of wage discrimination. This wage gap is real: "The existence of a gap between the earnings of men and women is one of the few facts not in dispute in the 'equality' debate."[77] Unfortunately, the evidence presented in this brief suggests that very little progress has been made since Judge Abella wrote these words in 1984. Women in Canada continue to earn a mere fraction of the salary paid to men. The wage gap has persisted throughout the employment equity work force during the first four reporting years of the Act. This reality is all the more acute for Aboriginal women, women with disabilities, and visible minority women.

The systematic underestimation – and underpaying – of women's work constitutes an important dimension of their labour force inequality. In order to achieve true equality in employment, women must not only have equal access to well-paying jobs, but must also be paid equal wages for work of equal value. The CACSW strongly believes that a pro-active pay equity

law must be coupled with strong employment equity legislation to battle the adverse effects of systemic discrimination on women, and therefore wishes to reiterate its recent recommendations concerning the expansion of pay equity initiatives in Canada (see Appendix C).

CONCLUDING REMARKS

The CACSW considers employment equity to be of utmost importance to all women and to society as a whole. This policy is necessary to ensure that justice is done to those who have been arbitrarily excluded by virtue of their group membership, largely because of the systems and practices still in place. The Abella Commission made it clear several years ago that concrete and effective action is long overdue.

This brief has demonstrated the current need for effective and responsive employment equity legislation. The pervasive and persisting effects of systemic discrimination on all women in the Canadian labour market were first exposed through an analysis of their occupational and salary profiles. The cumulative and circular process by which these inequalities are created and maintained was then examined. The effectiveness of the *Employment Equity Act* as a systemic remedy was then analyzed by assessing the progress made by women in the work force covered by the Act. The results were disappointing: women's progress during the first four reporting years of the Act was at best minimal. Aboriginal women, women with disabilities, and visible minority women continue to be doubly disadvantaged, more so in the targeted work force than in the overall Canadian labour force. In light of this limited progress, the CACSW has provided the Special House of Commons Committee on the Review of the Employment Equity Act with an analysis of the *Employment Equity Act* and a series of recommendations (see Appendix A) aimed at increasing its effectiveness.

The CACSW has made these recommendations and proposals in the spirit of improving the potential effects of the legislation on all women, and specifically Aboriginal women, disabled women, and visible minority women. Our recommendations are guided by years of research, policy analysis, legislative monitoring, and advocacy activities aimed at documenting and improving the severe disadvantages faced by women in the labour market and elsewhere.

Much has been learned from the first four reporting years of the current Canadian legislation. We know that the barriers to employment do not simply disappear with time. We know that the equality objectives defined in the legislation must not simply mirror the labour market inequalities which are present in the larger labour force. We have found that mandatory and enforceable goals and timetables as well as specific measures to attain these objectives are necessary to ensure the complete success of employment equity. The legislation must cover as many employers as possible so that as many women as possible can reap the benefits. A global policy response to systemic discrimination is also necessary if employment equity is to succeed. These are the CACSW's primary concerns. We firmly believe that a truly effective instrument for achieving equality in employment can be developed by addressing – and redressing – the gaps in the current *Employment Equity Act*.

NOTES

1. See for example Patricia Dale, *Women and Jobs: The Impact of Federal Government Employment Strategies on Women* (Ottawa: Canadian Advisory Council on the Status of Women, 1980); Canadian Advisory Council on the Status of Women, *Integration and Participation: Women's Work in the Home and in the Labour Force* (Ottawa: 1987); Wendy McKeen, *The Canadian Jobs Strategy: Current Issues for Women* (Ottawa: Canadian Advisory Council on the Status of Women, 1987); Glenda Simms, *Employment Equity into the 1990s and Beyond*, Talk presented in the Distinguished Lecture Series, Centre for Women's Studies and Feminist Research (London: University of Western Ontario, January 30, 1991). Several CACSW recommendations have also been passed concerning the removal of obstacles to employment equality for women, and particularly Aboriginal women, racial and ethnic minority women, and women with disabilities.

2. Nicole Morgan, *The Equality Game: Women in the Federal Public Service 1908-1987* (Ottawa: Canadian Advisory Council on the Status of Women, 1988).

3. Morley Gunderson and Leon Muszynski, *Women and Labour Market Poverty* (Ottawa: Canadian Advisory Council on the Status of Women, 1990).

4. For further examples, see Canadian Advisory Council on the Status of Women, *Researching for Equality: The CACSW 1990-93 Action Plan* (Ottawa: 1990). In addition to research studies, two recent CACSW activities have centred on the economic situation of Canadian women:
   - a symposium on "Women's Place in the Economy", held in March 1990 [for a report on this symposium, see *Fine Balances* (Newsletter of the CACSW), Summer 1990]; and
   - a second symposium entitled "Women and Poverty", held in March 1991 [for a report on this symposium, see Canadian Advisory Council on the Status of Women, *Women and Poverty: Report on the Regional Symposium, Montreal, March 12, 1991* (Ottawa: 1991)].

5. This principle is clearly stated in the CACSW's action plan, *Researching for Equality*, *supra*. See for example Gunderson and Muszynski, *Women and Labour Market Poverty*, *supra*, pp. 98-101.

6. Canada, Royal Commission on Equality in Employment (Rosalie Silberman Abella, commissioner), *Report of the Commission on Equality in Employment* (Ottawa: 1984).

7. Canadian Advisory Council on the Status of Women, *Recommendations: Abella Commission* (Ottawa: December 1984), listed under A12.1; Canadian Advisory Council on the Status of Women, *Recommendations: Employment Equity* (Ottawa: June 1985), listed under A12.2. See Appendix B for full text of recommendations A12.1 to A12.4.

8. Canadian Advisory Council on the Status of Women, *On Employment Equity: A Brief by the Canadian Advisory Council on the Status of Women to the Legislative Committee on Employment Equity (Bill C-62)* (Ottawa: 1985).

9. Canadian Advisory Council on the Status of Women, *Recommendations: Bill C-62* (Ottawa: December 1985), listed under A12.3; Canadian Advisory Council on the Status of Women, *Recommendations: Employment Equity Measures Affecting Federal Contractors* (Ottawa: December 1985), listed under A12.4. See Appendix B for the full text of these recommendations.

10. The CACSW does not favour the use of the term "visible minorities", because its effect is to label these groups as different and to include diverse groups under one single label. Others have made similar arguments. See Monica Boyd, *Gender, Visible Minority and Immigrant Earnings Inequality: Reassessing an Employment Equity Premise*, Departmental Working Paper 91-6 (Ottawa: Carleton University, Department of Sociology and Anthropology, June 1991), p. 11; see also Glenda Simms, "Coming To Terms with 'Visible Minority' ", *Women's Education des femmes*, Vol. 7, No. 4 (March 1990). The term will be used only because it appears as such in the *Employment Equity Act*.

11. Canada, Royal Commission on Equality on Employment, *Report*, *supra*, p. ii.

12. Canada, Employment and Immigration Canada, *Employment Equity Act and Reporting Requirements* (Ottawa: 1986).

13. Canada, Employment and Immigration Canada, Employment Equity Branch, *Employment Equity: Federal Contractors Program: Questions and Answers* (Ottawa: 1986). Because the Federal Contractors Program is not covered by the *Employment Equity Act*, the comments on this program will be brief.

14. See Joanne Moreau, "Employment Equity", *Canadian Social Trends*, No. 22 (Autumn 1991), p. 28.

15. *Ibid.*

16. *Ibid.*

17. Canada, Statistics Canada, *Earnings of Men and Women 1990* (Ottawa: 1992), Text Table II, p. 12.

18. Canada, Labour Canada, Women's Bureau, *Women in the Labour Force* (Ottawa: 1990), Tables 13 and 15.

19. Unless otherwise specified, data for the highlights on Aboriginal, disabled, and visible minority women are taken from Canada, Employment and Immigration Canada, Employment Equity Branch, *Employment Equity Availability Data Report on Designated Groups from the 1986 Census of Canada for Employers under the Employment Equity Act and The Federal Contractors Program* (Ottawa: 1988). The comparative data for Canadian women overall are also taken from this same source. These figures are based on Census data on adults aged 15 and over who worked sometime in 1985 or 1986. Thus, there are slight differences between the data on all Canadian women presented in this section and those in the previous section on Canadian women, which are based on the monthly Labour Force Survey.

20. Moreau, "Employment Equity", *supra*, p. 28.

21. All data on persons with disabilities, including Employment and Immigration Canada's availability data, are drawn from the Health and Activity Limitation Survey (HALS) conducted by Statistics Canada in 1986 and 1987. Disability is defined in terms of functional limitations: individuals are not considered disabled if they use a technical aid which completely eliminates their limitation. For further information, see for example Edward B. Harvey and Lorne Tepperman, *Selected Socio-economic Consequences of Disability for Women in Canada* (Ottawa: Statistics Canada, 1991).

22. Harvey and Tepperman, *Selected Socio-economic Consequences of Disability for Women in Canada*, *ibid.*, pp. 19.

23. *Ibid.*, p. 19.

24. Moreau, "Employment Equity", *supra*, p. 28. Detailed analyses of Census data have shown that these seemingly small earnings differences between visible minorities and the overall population serve to mask more severe income disadvantages. In addition to having a higher educational attainment, visible minorities tend to be concentrated in metropolitan areas, where wages are generally higher. When such income-related characteristics are taken into account, the pattern of lower incomes for visible minorities, and especially for women, is enhanced. See Boyd, *Gender, Visible Minority and Immigrant Earnings Inequality*, *supra*. This type of analysis was also done specifically for the Toronto metropolitan area: see Jack Kapica, "Visible Minorities Lead in Education but Trail in Income", *The Globe and Mail*, December 13, 1991.

25. For further evidence, see for example Hélène David, *Femmes et emploi : le défi de l'égalité* (Sillery: Les Presses de l'Université du Québec; Montréal: Institut de recherche appliquée sur le travail, 1987); Marie-Thérèse Chicha-Pontbriand, *Discrimination systémique : fondement et méthodologie des programmes d'accès à l'égalité en emploi* (Cowansville: Les éditions Yvon Blais, 1989).

26. See Moreau, "Employment Equity", *supra*, p. 28.

27. These figures are calculated from Canada, Statistics Canada, *Labour Force Annual Averages 1990* (Ottawa: 1991), Section B, Table 14, p. B-39.

28. Canada, Statistics Canada, *Earnings of Men and Women 1990*, *supra*, Text Table II, p. 12.

29. Canada, Statistics Canada, *Labour Force Annual Averages 1990*, *supra*, Section B, Tables 18 and 19, pp. B-46 and B-47.

30. Unless specified otherwise, the data for this section are drawn from the unpublished compilations of the Canadian Human Rights Commission, 1987-1990.

31. The first of these rates is taken from the EIC Census data, which is compiled on the basis of a longer reference period (the population who worked sometime in 1985 or 1986). The second rate is annual averages from the Labour Force Survey, which is compiled on the basis of the reference week prior to enumeration. See note 19.

32. *Ibid.*, p. 21.

33. Canada, Employment and Immigration Canada, Employment Equity Branch, *Employment Equity Availability Data Report on Designated Groups from the 1986 Census of Canada, supra.* Furthermore, their known availability is measured in 1986, and therefore represents a low estimate of their availability five years later.

34. *Ibid.*, p. 23.

35. Data is drawn from the previous Employment Equity Annual Reports.

36. Canada, Employment and Immigration Canada, *Employment Equity Act: Annual Report 1989* (Ottawa: 1989), p. 39.

37. *Ibid.*, p. 49.

38. Furthermore, the 1991 census universe has been expanded to include non-permanent residents of Canada: persons claiming refugee status; and persons who hold a student authorization, an employment authorization, or a Minister's permit. Almost three-quarters of these persons are probably visible minorities. In addition to the sheer increase in the number of visible minorities categorized as such from 1986 to 1991, it is estimated that this expansion of the target population will lead to an additional 15% increase in the count of visible minorities. This represents a low boundary estimate. See Margaret Michalowski, *Visible Minorities Among the Extended Target Population for the 1991 Census: Estimate as of August 1, 1990*, Technical Report 4.14 (Ottawa: Statistics Canada, 1991).

39. See note 24 for further details.

40. See note 24.

41. Marie-Thérèse Chicha-Pontbriand, "Sommes-nous à la fine pointe?", *Avenir* (mars 1989), pp. 20-22.

42. Canada, Royal Commission on Equality in Employment, *Report*, *supra*, pp. 4-5.

43. A recent Task Force on Access to Professions and Trades in Ontario has outlined the discriminatory effects of these and other practices on persons with training or experience from outside of Canada. See Ontario, Task Force on Access to Professions and Trades in Ontario (Peter Cumming, chair), *Access!* (Toronto: Ontario Ministry of Citizenship, 1989). Additional barriers to employment for visible minority women are examined in the March 1990 issue of *Currents: Readings in Race Relations*, Vol. 5, No. 4, published by the Urban Alliance on Race Relations. See also Jane Allan, *Employment Equity: How We Can Use it to Fight Workplace Racism* (Toronto: Cross Cultural Communication Centre, 1988).

44. Canada, Royal Commission on Equality in Employment, *Report*, *supra*, p. 10.

45. Thus, systemic discrimination is not a new, more recent form of discrimination, but rather a new way of understanding the past and present discrimination experienced by the designated groups. See Muriel Garon, "Pour une approche intégrée de la discrimination systémique : convergences et contributions des sciences sociales et du droit", *Revue de droit, Université de Sherbrooke*, Vol. 17, No. 1 (1986), pp. 205-207.

46. For a complete analysis of the dynamic interrelationships between each of these factors, see Chicha-Pontbriand, *Discrimination systémique*, *supra*, Chapter 2. See also David, *Femmes et emploi*, *supra*, Chapters 1 and 2.

47. Chief Justice Dickson's definition is written in *Action Travail des Femmes* v. *Canadian National Railway Company* [1987] 1 S.C.R. 1139. In this landmark case, it was demonstrated that CN Rail's hiring and promotion practices and the enormous obstacles faced by the few women in the blue-collar work force amounted to a systematic denial of women's equal employment opportunities. CN Rail was therefore required to implement an employment equity program to break the vicious cycle of discrimination.

48. *Ibid.*

49. Muriel Garon, *Les conventions collectives : une piste pour l'analyse de la discrimination* (Cowansville : Les éditions Yvon Blais, 1989), p. 207.

50. In a recent study of barriers to advancement in the federal public service, women in certain occupations stated more frequently than men that they were denied promotion because they wanted a job for which a woman was not normally hired. See Abt Associates of Canada, *Analysis of the Survey on Barriers to Advancement in the Public Service* (Ottawa: 1989), pp. 42-48. For other examples, see Chicha-Pontbriand, *Discrimination systémique*, *supra*, pp. 65-66; David, *Femmes et emploi*, *supra*, pp. 29-30; Muriel Garon, *Les conventions collectives*, *supra*.

51. Data indicate that women are more frequently employed in industrial sectors where the size of businesses tends to be smaller. See Marie-Thérèse Chicha-Pontbriand and Daniel Carpentier, *Document de consultation sur l'équité salariale* (Montréal : Commission des droits de la personne du Québec, 3 décembre 1990). Many visible minority women are also concentrated in small workplaces which are not covered by the legislation; see Allan, *Employment Equity*, *supra*, p. 11.

52. See Canada, Employment and Immigration Canada, Employment Equity Branch, *Employment Equity: A Guide for Employers* (Ottawa: 1986), p. 13.

53. Margaret Young, *Affirmative Action/Employment Equity* (Ottawa: Library of Parliament, 1989), p. 8.

54. Canadian Advisory Council on the Status of Women, "Employment Equity: Comments for the Parliamentary Review of Bill C-62 and the Federal Contractors Program", unpublished, November 1990.

55. Morton Weinfeld, "The Social Costs of Discrimination in Canada", in Canada, Royal Commission on Equality in Employment, *Research Studies of the Commission on Equality in Employment* (Ottawa: 1985), pp. 387-400.

56. For further details, see Canada, Employment and Immigration Canada, Employment Equity Branch, *Employment Equity Availability Data Report on Designated Groups from the 1986 Census of Canada*, *supra*; P. Foy et al., "Intercensal Estimates of Employment Equity Designated Groups: Survey Options", unpublished, Statistics Canada, n.d.

57. See Chicha-Pontbriand, *Discrimination systémique*, *supra*, Chapter 3.

58. Canada, Employment and Immigration Canada, Employment Equity Branch, *Employment Equity Availability Data Report on Designated Groups from the 1986 Census of Canada*, *supra*, p. 2.

59. See also Lucie Lamarche, *Les programmes d'accès à l'égalité en emploi* (Montréal : Louise Courteau éditrice, 1990), pp. 218-220.

60. Canada, Employment and Immigration Canada, Employment Equity Branch, *Employment Equity: A Guide for Employers*, *supra*, p. 12.

61. *Ibid.*

62. See for example the "Qualitative Measures and Good Faith Efforts" described in Canada, Employment and Immigration Canada, *Annual Report: Employment Equity Act, 1991* (Ottawa: 1991), pp. 7-12.

63. See for example the analysis of the problems, the proposed initiatives, and the resource list provided in Catherine Akilah Meade, *Employment Equity for Visible Minority Women: A Guide For Employers* (Toronto: Urban Alliance on Race Relations and Ontario Women's Directorate, 1989).

64. Canada, Employment and Immigration Canada, Employment Equity Branch, *Employment Equity: A Guide for Employers*, *supra*, p. 17.

65. See for example the "Qualitative Measures and Good Faith Efforts" described in Canada, Employment and Immigration Canada, *Annual Report: Employment Equity Act, 1991*, *supra*.

66. Canada, Employment and Immigration Canada, *Annual Report: Employment Equity Act, 1991*, *supra*, p. 2.

67. Canada, Royal Commission on Equality in Employment, *Report*, *supra*, p. 195.

68. *Ibid.*, p. 197.

69. Brenda Billingsley and Leon Muszynski, *No Discrimination Here?: Toronto Employers and the Multi-racial Workforce* (Toronto: Urban Alliance on Race Relations and the Social Planning Council of Metropolitan Toronto, 1985), p. 73; cited in Allan, *Employment Equity*, *supra*, p. 10.

70. See Herbert Hammerman, *A Decade of New Opportunity: Affirmative Action in the 1970s* (Washington, D.C.: The Potomac Institute, 1984); John J. Donohue III and James Heckman, "Continuous vs. Episodic Change: The Impact of Civil Rights Policy on the Economic Status of Blacks", *Journal of Economic Literature*, Vol. XXIX, No. 4 (December 1991), pp. 1603-1643.

71. Canada, Royal Commission on Equality in Employment, *Report*, *supra*, p. 254.

72. Canada, Employment and Immigration Canada, *Annual Report: Employment Equity Act, 1991*, *supra*, p. 13.

73. Chicha-Pontbriand, *Discrimination systémique*, *supra*, p. 70.

74. Judith L. MacBride-King, *Work and Family: Employment Challenge of the 90's* (Ottawa: Conference Board of Canada, 1990).

75. See Muszynski and Gunderson, *Women and Labour Market Poverty*, *supra*.

76. See Appendix C for the full text of these recommendations.

77. Canada, Royal Commission on Equality in Employment, *Report*, *supra*, p. 232.

APPENDIX A: SUMMARY OF RECOMMENDATIONS MADE IN THE BRIEF

1. The CACSW **recommends** that the *Employment Equity Act* be extended to cover all federally regulated employers, including Crown corporations, government departments, agencies, and businesses and corporations in the federally regulated private sector.

2. The CACSW further **recommends** that all employers bidding on contracts with the federal government, including construction and legal firms, be subject to the employment equity legislation.

3. The CACSW therefore **recommends** that methodological studies be undertaken by Statistics Canada with a view to expanding the actual availability estimates to include the broader supply of labour offered by designated groups.

4. The CACSW further **recommends** that, within a reasonable period of time, the operational definition of "availability" in the *Employment Equity Act* be expanded to include those members of the work force who are qualified to occupy a given occupation as well as those who are capable of acquiring these qualifications within a reasonable period of time.

5. The CACSW therefore **recommends** that the *Employment Equity Act* be amended to include mandatory numerical goals and timetables for their achievement.

6. The CACSW **recommends** that Employment and Immigration Canada or another enforcement agency should provide guidelines for setting flexible, yet effective, numerical goals and timetables. Timetables should contain a specific target date at which time the employer's performance should be assessed by Employment and Immigration Canada or another enforcement agency.

7. The CACSW therefore **recommends** that corrective measures, equal opportunity measures, and support measures be explicitly recognized and distinguished in the *Employment Equity Act* as essential components of any employment equity program. More specific distinctions and definitions of these three employer strategies, including their specific objectives and the rationale for their implementation, should be provided to employers in the form of guidelines or regulations.

8. The CACSW further **recommends** that employers be required to develop and implement measures corresponding to each of the three program components. These measures should be adapted to the particular situation of the organization as well as the economic and social context in which the organization operates.

9. The CACSW also **recommends** that Employment and Immigration Canada or another enforcement agency provide further education, resources, and assistance to employers and all other parties involved in the development and management of employment equity plans.

10. The CACSW therefore **recommends** that the legislation explicitly include the full participation of unions and representatives of designated groups in the planning, implementation, and monitoring of the equity program.

11. The CACSW **recommends** that reporting requirements be extended to the actual employment equity plan that employers are expected to develop, implement, and manage. This information should include, but not be limited to:

    - the numerical goals and timetables set by employers to achieve proportional representation of designated groups, including the annual adjustments made to these objectives;

    - the specific corrective, equal opportunity, and support measures developed and implemented by employers to achieve and maintain the proportional representation of designated groups.

12. The CACSW therefore **recommends** that all plan requirements, including goals and timetables, the measures implemented to achieve these results, and the inclusion of this information in the annual reports, be enforceable by the legislation.

13. The CACSW also **recommends** that employer non-compliance be subject to penalty.

14. The CACSW therefore **recommends** that the upper limit of the fine be considerably increased, and that the fine be established in proportion to the size of the employer.

15. The CACSW therefore **recommends** that the powers and resources of the Canadian Human Rights Commission be increased, or that an independent monitoring and enforcement agency with adequate human and financial resources be created.

APPENDIX B: PREVIOUS CACSW RECOMMENDATIONS ON EMPLOYMENT EQUITY

ABELLA COMMISSION [A12.1] December 1984

1. The CACSW supports the findings and recommendation of the Abella Commission with respect to the urgent need for education, training, and child care in order for women and other disadvantaged groups to gain access to employment opportunities.

2. The CACSW explicitly supports the central recommendation of the Abella Commission, that

   a law be passed requiring all federally regulated employers, including Crown corporations, government departments, agencies, and businesses and corporations in the federally regulated private sector, to implement employment equity. This legislation should include three major components:

   (a) a requirement that federally regulated employers take steps to eliminate discriminatory employment practices;
   (b) a requirement that federally regulated employers collect and file annually data on the participation rates, occupational distribution and income levels of employees in their workforces, by designated group; and
   (c) an enforcement mechanism.

   and demands that the government introduce such legislation immediately.

3. The CACSW particularly supports the inclusion of the principle of equal pay for work of equal value as an integral element of the definition of employment equity developed by the Abella Commission.

4. With respect to contract compliance, the CACSW recommends that the federal government immediately require businesses in receipt of federal contracts for goods or services to comply with existing federal anti-discriminatory legislation, including the principle of equal pay for work of equal value as legislated under the Canadian Human Rights Act.

1. The CACSW firmly believes that reliance on public scrutiny to enforce employment equity programs is inadequate, and recommends that the powers and resources of the Canadian Human Rights Commission be increased to enforce employment equity effectively, or that an independent monitoring and enforcement agency be created.

2. The CACSW further recommends that employers within the scope of the government's employment equity program be required to collect and report a full range of information on their work forces, a requirement that is in accordance with existing good management practices. The information should include, but not be limited to

   (a) work force profiles, providing standardized data on target group members by occupation and salary;
   (b) data showing movements within the work force, including standardized data on turnover and vacancy rates, hirings, layoffs, terminations, promotions, and training and development for all target groups by occupation and salary.

3. The CACSW reaffirms that special measures are necessary components of any program of employment equity, to counter the effects of past discrimination.

The CACSW recommends

1. that studies should be undertaken to determine the possible impact of extending the coverage of the legislation to small businesses;

2. that the most important areas in which employers will be expected to adjust their practices should be included in the legislation itself, rather than in the form of guidelines. They should include but not be limited to:

   - recruitment and hiring practices;
   - promotion practices;
   - pension and benefit plans;
   - workplace accessibility;
   - occupational testing and evaluation;
   - occupational qualifications and requirements;
   - parental leave provisions;
   - opportunities for education and training leaves;
   - equal pay for work of equal value;

3. that the requirements for employers to involve employee groups and members of target groups in the planning and implementation of its employment equity program should be included in the legislation itself, rather than in the form of guidelines;

4. that the requirements for employers to formulate goals and timetables with respect to employment equity should be included in the legislation itself, rather than in the form of guidelines;

5. that employers should be required to report a full range of information and at a level of detail sufficient to reveal possible systemic discrimination. This information should include, but not be limited to:

   (a) work force profiles, providing standardized data on target group members by occupation and salary;
   (b) data showing movements within the work force, including standardized data on turnover and vacancy rates, hirings, layoffs, terminations, promotions, and training and development for all target groups by occupation and salary (June 1985 recommendation).

   With regard to this recommendation, the CACSW believes that the following information should be included as reporting requirements:

   - number of applicants in each target group for every hiring;
   - part-time and full-time positions;
   - lateral transfers;
   - demotions;

6. that the government regulations provided for in the legislation must ensure that the information to be reported by employers is both standardized and comparable;

7. that the requirement to implement employment equity should be made enforceable by the Canadian Human Rights Commission (CHRC) or a newly created independent agency with the appropriate mandate and resources to fulfil this function;

8. that the powers and resources of the CHRC be increased, or that an independent monitoring and enforcement agency be created which has adequate human and financial resources (June 1985 recommendation);

9. that the amount of the fine should be established with reference to the size of the companies subject to it. As such, serious consideration should be given to raising the maximum amount of the fine proportionally with respect to large companies.

EMPLOYMENT EQUITY MEASURES AFFECTING FEDERAL CONTRACTOR **[12.4] December 1985**

1. The CACSW adopts recommendation 63 of the **Equality For All** report to ensure employment equity. This recommendation calls for a contract compliance program to be established by legislation and it should apply to all firms providing goods and services to the government of Canada, with necessary adjustment being made, by regulation, on the basis of the size of the firm or the volume of its business with the government.

2. The CACSW recommends that a contract compliance program be established by the federal government requiring companies to have developed an employment equity plan, and to declare a commitment to implementing their plan as a condition stipulated in the contract.

APPENDIX C: CACSW RECOMMENDATIONS ON WOMEN'S POVERTY

WOMEN AND POVERTY **[A16] December 1990**

I. Minimum Wages

Whereas

- since 1975, federal, provincial and territorial governments in Canada have allowed the real value of minimum wages to erode by 20% to 30% through a policy of neglecting to raise them in accordance with rises in average industrial wages;
- this policy has contributed and continues to contribute to a suppression of wage growth in Canada and probably also wage polarization;
- no public discussion has been held on the advisability of a public policy of wage suppression;
- many women experience poverty because they are in minimum-wage jobs;
- it is critically important to improve employment income which is the central mechanism for alleviating poverty in Canada;
- benefit packages (pensions, health, etc.) are an increasingly important part of labour market compensation;
- legislation that increases the wage floor would induce productivity improvements that are a more sound basis for international competition than wage reductions;

the CACSW recommends

1. that the federal government restore and urge the provincial and territorial governments to restore minimum wages to their former value of 50% of the average industrial wage; and thereafter, increases in the minimum wage should be made to maintain this constant 50% ratio;

2. that the federal government seriously consider significant increases in minimum wages beyond 50% of average industrial wages in the context of a national strategy to improve wages in the Canadian economy;

3. that the federal government consider the establishment of a Minimum Remuneration policy where minimum wages **and** benefits are set at an appropriate ratio to this average level.

II. Pay and Employment Equity

Whereas

- much of women's poverty is associated with low wages;
- women on average earn approximately 60% of what men earn in employment and most of this cannot be attributed to differences in education and experience between men and women;
- women are segregated into low-wage occupations and industries;
- women are doubly disadvantaged when they are also members of groups such as aboriginal people, racial or ethnic minorities, or disabled persons;

the CACSW reiterates its June 1985 and December 1985 recommendations and further recommends

1. that pay equity initiatives in Canada be expanded to include all private as well as public sector workers and should encompass all jobs occupied by low-wage women. This would require the development of systems to allow comparisons for low-wage, female-dominated jobs, even where there are no male-dominated comparison groups, such as in child care establishments;

2. that the federal government, through amendments to the Employment Equity Act, expand employment equity initiatives in the private and public sectors that would address the needs of low-income women;

3. that the federal government raise its targets for the employment of women in all occupations to more closely match women's overall proportion in the labour force.

III. Part-time Work

Whereas

- women are disproportionately employed in part-time jobs;
- although women would rather be in full-time employment, they are frequently forced into accepting part-time employment because of their domestic and child care responsibilities and employers' perceptions of women's employment patterns;
- the wages, benefits and forms of protection provided by part-time jobs, in general, are substantially less than full-time jobs;
- women who do part-time work are at a substantially higher risk of poverty than women who work full-time;

the CACSW recommends that the federal government amend its employment standards legislation to ensure that part-time workers are protected in the same manner as full-time workers, in particular, that part-time workers should be entitled to the same pay and benefits (on a pro-rated basis) as equivalent full-time workers.

IV. Child Care

Whereas

- child care responsibilities are a major constraint on women's labour market behaviour and ability to secure well-paid full-time employment;
- high-quality affordable child care is an essential support for all parents in the labour market;
- the 1986 Task Force on Child Care reported that the number of available spaces in licensed child care centres was substantially below the need; the 1988 report of the National Council of Welfare noted that although 1.9 million children under the age of 13 need some form of care because their parents work outside the home, there were only 243,545 licensed child care spaces in Canada; and the CACSW, for many years, has protested the lack of a national strategy to expand the number of licensed child care spaces and facilities;

- most children in care in Canada are in unlicensed or informal child care arrangements that are often less than adequate;
- the high cost of child care, when it is available, is a significant barrier to women (particularly single women on welfare) entering and staying in the paid labour force;
- the federal government has promised a national child care program for many years and has consistently reneged on this promise;
- the only part of the National Child Care Strategy that has been implemented — the doubling of the child care deduction — is highly inequitable because it gives the greatest benefits to high-income families and lowest benefits to low-income families, and is wholly incompatible with the philosophy of federal income tax reform;

the CACSW reiterates its March 1984 and June 1986 recommendations and further recommends

1. that the federal government immediately resume negotiations with the provincial and territorial governments with the goal of establishing a universally accessible, good quality, non-profit child care system across Canada to meet the needs of children, their parents and the economy;

2. that the federal government increase the amount of money it makes available to child care centres in the form of capital grants to encourage the growth of child care spaces;

3. that the federal government not impose a fixed ceiling on the amount of money it is willing to share with the provinces for the operating costs of child care;

4. that the federal government replace the child care deduction with a child care tax credit.

V. Parental Supports

Whereas

- women have primary responsibility for children and for the management of household duties in general and this is one of the main reasons why women are less able to earn an adequate income in the labour market;
- any significant improvement in the status of women can only be achieved with a change in the relationship of both women and men to parenting and domestic work;
- Canada has a poor system of support for parents managing the difficult balance between family responsibilities and paid work life;

the CACSW reiterates its September 1976 and March 1988 maternity/parental benefits recommendations, and its recommendations of March 1983, December 1983, March 1984 and June 1984 on parental leave, and further recommends

1. that the federal government extend the parental benefits provision in unemployment insurance from 10 to 26 weeks in addition to the basic maternity benefit to women before and after childbirth;

2. that restrictions on the availability of maternity and parental benefits in unemployment insurance should be eliminated because they undermine effective support. These restrictions include:

(a) the two-week waiting period for maternity and parental benefits,
(b) the provision that maternity and parental benefits not be available to a beneficiary if her union is on strike (unless she had begun making arrangements before the strike),
(c) the thirty-week limit on maternity, parental and sickness benefits which effectively apply only to pregnant women,
(d) the special requirement of twenty weeks employment to qualify for maternity and parental benefits;

3. that federal employment standards legislation be amended to provide employment security to workers who are parents and choose to stay home with a young child, or a child with special needs, as an alternative to child care for a period of up to one year.

VI. Unemployment Insurance

Whereas

- the philosophy that has guided recent changes in unemployment insurance in Bill C-21 is based on the idea that unemployment insurance creates labour market inflexibility and exerts upward pressure on wages;
- the move toward a higher wage economy is good for the Canadian economy (as long as public policy shapes the development of the economy through active industrial and trade-related policies) and is the only real foundation for the elimination of women's labour market related poverty;
- as a social insurance program with eligibility based on individual contributions and past employment, unemployment insurance is an important source of independent income security (and poverty prevention) for women who suffer insecurity in their jobs, particularly at a time when massive restructuring is occurring in the Canadian economy;
- restrictions on unemployment insurance eligibility for workers who are employed less than 20 hours a week discriminate against women because women are disproportionately employed in part-time jobs;

the CACSW reiterates its October 1985 recommendation and further recommends that in light of the recent increase in unemployment and the need for a strong income security program in the face of massive economic restructuring, the federal government reverse the recent unemployment insurance changes which have restricted eligibility and reduced benefit levels.

VII. Child Benefits

Whereas

- child-related benefits (Family Allowances, the Refundable Child Tax Credit, the Non-Refundable Child Tax Credit, and the Federal Sales Tax Credit) provide a significant portion of the total income for low-income women, and do so in a way that provides a strong incentive to earn extra income through employment;
- the presence and number of children is an important factor increasing the likelihood of poverty;
- child poverty is a critical national concern and national embarrassment;

- Canada has a much higher rate of child poverty than most other advanced industrial nations;
- the federal government has adopted a policy of progressive reduction of child-related benefits through the partial indexation of family allowances and the two child tax credits;

the CACSW recommends

1. that the federal government restore the full indexation of child-related benefits;

2. that child-related benefits be used as a major policy tool in the alleviation of child poverty, and the federal government consider a large increase in the benefit paid to low-income families through the combination of Family Allowances and the Refundable Child Tax Credit.

VIII. Welfare Reform

Whereas

- social assistance or welfare in Canada provides means-tested income support in most cases far below equivalent rates of poverty and is highly stigmatizing for recipients;
- people on social assistance in most provinces and territories have very little financial incentive to be employed because of the loss of social assistance and related benefits (i.e., they face very high implicit marginal tax rates on earned income) and are therefore trapped in poverty;
- welfare is rooted in the tradition of women's economic dependence which is inconsistent with the current reality that women seek and, for the most part, are economically independent through paid employment;
- Bill C-69 and the cap on Canada Assistance Plan cost-sharing to British Columbia, Alberta and Ontario will create hardship for poor women on welfare and will limit provincial welfare reform efforts;

the CACSW recommends

1. that the federal government urge the provincial and territorial governments to improve social assistance rates to levels that more realistically match people's needs;

2. that the federal government urge the provincial and territorial governments to reduce the tax-back rates on earned income for welfare recipients to a level at least no higher than the highest combined federal-provincial marginal tax rate;

3. that the federal government withhold Bill C-69, specifically the provision that places a cap on Canada Assistance Plan (CAP) transfers to Ontario, Alberta and British Columbia, and modify CAP regulations to assure that federal regulations do not restrict provincial welfare reform and benefits improvement.

I. Full Employment

Whereas

- the CACSW's book Women and Labour Market Poverty concludes that women are much more likely to be poor than are men and that women's economic status is, to a large degree, conditioned by the state of the economy and the labour market;
- unemployment and job instability are economic problems which undermine any other effort to alleviate poverty;
- women are frequently employed part-time because full-time employment is not available;
- unemployment and job instability are, to a large extent, policy-induced in that they result from the federal government's commitment to tackle inflation primarily through monetary policy and restricted credit through high interest rates;
- although inflation damages the Canadian economy and inflation control continues to be an important policy objective, other policy instruments exist that do not undermine growth and employment;
- other nations faced with problems similar to those in Canada have made commitments to full employment and largely achieved it, along with lower inflation, through a mixture of economic and labour market policies and more cooperative methods of national economic decision-making;
- there is a profound need in Canada to build consensus among regions and major socio-economic players on a shared national strategy for a fair and prosperous future;
- there is also a need to build alternatives to patriarchal decision-making structures which not only largely exclude women but also help reinforce the traditional division of labour between men and women in the home and in the workplace;

the CACSW recommends

1. that the federal government make a commitment to achieve full employment in the form of a dramatically lower unemployment target rate, within the context of stable prices;
2. that the federal government abandon its commitment to an exclusive focus on monetary policy in its anti-inflationary strategy;
3. that the federal government pursue the development of a social partnership approach to economic decision-making in Canada (with women as a key social partner) that seeks to achieve a more effective mix of policies to combat inflation while pursuing employment growth, stability and equity.

II. Industry and Trade Policy

Whereas

- **Canada faces dramatic changes in the structure of its economy as a result of declining tariffs, declining commodity prices, the Canada-United States Free Trade Agreement, technological change and an increasingly competitive global economy;**
- **women are disproportionately employed in those trade-sensitive industries that are experiencing the full brunt of the adjustment to the new global realities;**
- **in the face of these challenges the federal government has adopted a passive industrial policy that consists primarily of the Canada-United States Free Trade Agreement;**
- **Canada cannot hope to compete on the basis of a low-wage strategy because wages in developing countries are so far below those in Canada, but can hope to compete based on superior productivity performance, product innovation and sophistication, and marketing intelligence;**
- **higher value-added manufacturing and service production is rooted in the ability to build a high skills training culture and the diffusion of science and technology into new product and process development, and is the only foundation for sustaining a high-wage economy;**
- **women are for the most part excluded from science- and technology-based occupations, which is not only unfair and wasteful of important human resources but also inhibits productivity growth;**

the CACSW recommends

1. **that the federal government adopt and urge the provincial and territorial governments to adopt active trade and industrial strategies that move Canadian business and the Canadian labour force into higher value-added manufacturing and service activity;**
2. **that the federal government develop and urge the provincial and territorial governments to develop programs to build a strong national and local capacity for science- and technology-based innovation and its diffusion into business activity, and ensure through education, training and specific policies that women are able to take their rightful place in these occupations;**
3. **that the federal government actively support and urge the provincial and territorial governments to support community-based economic development efforts that seek to build productive employment opportunities in communities lacking an adequate employment base;**
4. **that the federal government develop and urge the provincial and territorial governments to develop training-based labour adjustment policies that assist women workers directly affected by industrial restructuring to upgrade skills for emerging employment opportunities.**

III. The Role of the Public Sector

Whereas

- the federal government deficit has declined significantly relative to gross domestic product since 1984;
- fiscal restraint measures are having a negative and divisive impact on people in Canada by cutting into critical social programs, many of which are of direct benefit to poor women;
- government spending on many services such as health, education and the public service are important sources of relatively well-paid jobs in which women are disproportionately employed;
- the public sector is seen as a relatively good employer providing stable jobs with employment equity considerations, good benefits and high levels of unionization;
- the public sector is an essential element of the Canadian economic environment and public employment is often the most socially necessary and economically efficient form of production;
- deregulation and privatization are encouraging the growth of low-wage employment and the proliferation of labour market related poverty through contracting out and part-time employment;
- fair wage legislation currently stipulates that governments can require the payment of fair wages only in those contracts it awards to the construction sector;

the CACSW recommends

1. that the national debt should not deter the federal government from using the public sector as a vehicle for the provision of health, education and other social programs;
2. that the federal government use fair tax measures as a central mechanism to reduce the federal deficit rather than simply expenditure restraint;
3. that the federal government extend its fair wage legislation to all providers of goods or services on a contract basis with government.

IV. Unionization

Whereas

- unions in general contribute to improved wages and working conditions for workers;
- unionized firms tend to have more benefits than non-unionized firms and the benefits in unionized firms tend to be better for average- and low-wage workers than those in non-unionized firms;
- unions provide an important degree of due process in the employment contract relationship between employees and employers through the grievance procedure as well as monitoring and communication functions, and this is of special importance to women workers who are disproportionately employed in jobs characterized by the lack of due process and a high level of insecurity;
- legislation to improve the labour market status of women, such as pay and employment equity, is more effective in unionized firms;
- Canadian labour law works against the improvement of women's employment situation because it makes it difficult to organize unions in those industries and occupations with high levels of part-time and casual employment, with small employee units, and because of the required employer and union consensus on the definition of the bargaining unit;
- contracting out undermines union employment and encourages the growth of low-wage jobs;

the CACSW reiterates its April 1980 recommendations [A6.1], and further recommends

1. that consideration be given to modifying labour relations legislation in Canada to encourage the organization of collective bargaining units to provide formal procedures of dispute settlement and ongoing formal communication between management and labour. This might include:

   a) considering forms of organization other than certification by single employer and single site;
   b) reviewing existing procedures to simplify the sign-up process and shorten the sign-up period;
   c) requiring labour relations boards to allow for a union-defined bargaining unit;

2. that governments consider imposing a system of wage extension by decree, as in the clothing and construction industries in Quebec and more broadly in several European countries, where wages and other conditions of employment such as pay and employment equity provisions negotiated in an industry, sector or region are extended to non-unionized employees.

V. Training

Whereas

- occupational and job-related training is an important mechanism for the improvement of the wage-earning potential and career life chances of women and other disadvantaged groups in the labour market;

- training represents an important lever in improving Canada's competitive economic position under the Canada-United States Free Trade Agreement, GATT tariff reductions and technological change where comparative advantage is based less on comparative wage levels than it is on comparative advantage in skills, innovation and flexibility;

- consistent and clear evidence proves that women are under-represented in training funded under various program components of the Canadian Job Strategy (e.g., women make up only 8% of participants in Skill Shortages, and hold only 4% of apprenticeship positions in Canada), and the bulk of training for women continues to be in traditional low-skill and low-wage occupations thus reinforcing women's job segregation and low wages;

- considerable provincial/territorial variation exists in the level of training allowances, special assistance such as child care and drug benefits, etc., thereby presenting real financial barriers to women's participation in training programs where such levels are low;

- several recent studies of the training system have found it deficient overall and requiring a major overhaul specifically with respect to two issues: a) the lack of an effective national and local planning mechanism that would allow for involvement of the recipients of training (workers and employers) in the decision-making process with respect to training policies and priorities, and b) the lack of an adequate funding mechanism to pay for training costs;

the CACSW reiterates its December 1986 recommendations [A1.4] and further recommends

1. that the federal government review all programs under its Canadian Jobs Strategy (CJS), ensuring that women are participating in skill training (particularly in non-traditional occupations) and upgrading programs in proportions equivalent to their participation in the labour force;

2. that in light of Canada's large training deficit and the critical need for a highly skilled labour force in the face of technological change and international competition, the federal government restore its real level of spending on training under the CJS to levels at least as high as in 1985-86;

3. that governments consider various ways in which training can be expanded through a variety of specially earmarked funding mechanisms;

4. **that training programs provide adequate training allowances and special assistance for child care, language skills training and other needs so that women are not effectively barred from training;**

5. **that the federal government develop ways of ensuring that all provinces and territories enable low-income women to secure training.**